

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

NOV 14 PM 3:35

U.S. DISTRICT COURT
N.D. OF ALABAMA

DANA RAY, }
 }
Plaintiff }
 }
vs. }
 }
ABC AUTO PARTS, ET AL., }
 }
Defendants }

CIVIL ACTION NO.

97-AR-2649-S

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ENTERED

NOV 14 1997

MEMORANDUM OPINION

Appearing on this court's regular motion docket on November 14, 1997, was a motion by plaintiff, Dana Ray, to remand the above-entitled action to the Circuit Court of Jefferson County, Alabama, together with what plaintiff designates as a "Notice of Dismissal." Apparently she seeks to eliminate her claims under the Fair Labor Standards Act "without prejudice" for the purpose of eliminating federal question jurisdiction and obtaining a remand pursuant to 28 U.S.C. § 1447(c).

Although the court would allow plaintiff to dismiss her federal claims upon which defendants' removal was based, her dismissal must be "with prejudice" unless defendants agree that it be "without prejudice." There has been no response from defendants to plaintiff's motion to remand or to her purported "Notice of Dismissal." Unless by 4:30 P.M., November 24, 1997,

the court is informed by defendants that they do not object to a dismissal "without prejudice" or plaintiff agrees to a dismissal of her federal claims "with prejudice," the "Notice of Dismissal" will be stricken and the motion to remand will be denied. If notice to the contrary is received, the federal claims will be dismissed and the case will be remanded.

DONE this 14th day of November, 1997.

A handwritten signature in black ink, appearing to read "William M. Ackers, Jr.", written over a horizontal line.

WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE